

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION**

SAF-T-GARD INTERNATIONAL, INC.,)	
Plaintiff,)	
v.)	No. 07 CH 1266
METROLIFT INC.,)	
Defendant.)	
		Consolidated with:
CLEARBROOK, an Illinois corporation,)	
Plaintiff,)	
v.)	No. 07 CH 01518
METROLIFT INC., and JOHN DOES 1-10,)	
Defendants.)	

NOTICE OF CLASS ACTION AND PROPOSED SETTLEMENT

TO: All persons and entities who (1) in the period between January 16, 2002 and December 3, 2007, (2) were sent faxes by or on behalf of Metrolift promoting or advertising its goods or services, (3) and who did not provide express permission or consent to Metrolift to send the fax and did not have an established business relationship with Metrolift prior to the sending of the fax.

***PLEASE READ THIS NOTICE CAREFULLY.
THIS IS NOT A NOTICE OF A LAWSUIT AGAINST YOU.
YOU MAY BENEFIT FROM READING THIS NOTICE.***

***IF YOU WISH TO RECEIVE A PORTION OF THE CLASS SETTLEMENT PROCEEDS,
YOU MUST RETURN A CLAIM FORM BY JULY 13, 2009.***

WHAT THIS LAWSUIT IS ABOUT

This action is pending in the Circuit Court of Cook County, Illinois, County Department, Chancery Division. On behalf of a proposed class, plaintiffs alleged that the defendant, Metrolift, (“Metrolift”), violated the Telephone Consumer Protection Act, 47 U.S.C. §227 (“TCPA”), the Illinois Consumer Fraud Act, 815 ILCS 505/2, and other state law by sending advertising material promoting Metrolift products or services by fax to individuals and businesses.

Metrolift denies plaintiffs’ allegations, and has raised defenses to plaintiffs’ claims.

The parties desire to settle this lawsuit. The judge presiding over the lawsuit granted preliminary approval of the settlement, subject

to a fairness hearing which will take place on August 4, 2009 at 10:30 a.m., **in Room 2308 of the Circuit Court of Cook County, Illinois, County Department, Chancery Division, Daley Center, 50 W. Washington St., Chicago, Illinois 60602.**

This notice explains the nature of the lawsuit and the terms of the settlement and informs you of your legal rights and obligations.

IN ORDER TO OBTAIN MONETARY BENEFITS OF THIS SETTLEMENT, YOU MUST RETURN, BY JULY 13, 2009 THE PROOF OF CLAIM FORM ATTACHED TO THIS NOTICE IN ACCORDANCE WITH THE INSTRUCTIONS SET FORTH IN THIS NOTICE.

NO ADMISSION OF LIABILITY

By settling this lawsuit, Metrolift is not admitting that it has done anything wrong. Metrolift expressly denies that it has done anything wrong.

THE PROPOSED SETTLEMENT

Plaintiffs and Metrolift have agreed to the settlement described below. **YOU HAVE BEEN IDENTIFIED BY AS SOMEONE WHO MAY HAVE RECEIVING A FAX FROM METROLIFT. IF YOU WISH TO RECEIVE A PORTION OF THE SETTLEMENT PROCEEDS, YOU MUST RETURN THE PROOF OF CLAIM FORM ATTACHED AT THE END OF THIS NOTICE IN ACCORDANCE WITH THE INSTRUCTIONS IN THIS NOTICE BY JULY 13, 2009. If you do not wish to be part of the settlement, you must opt-out. If you return your claim form and the settlement is finally approved, you will be sent a check for your portion of the settlement.**

Recovery to Class Members. Metrolift agrees to pay into a Settlement Fund the total sum of \$750,000.00 (the “Settlement Fund”). After deducting payment to the named plaintiffs, attorneys’ fees and costs as described below, and costs related to notice and administration of the settlement, the net fund remaining will be distributed by check on a pro rata basis to each class member who: (i) does not opt-out; (ii) **RETURNS THE PROOF OF CLAIM FORM BY JULY 13, 2009 INDICATING THAT THEY WANT TO PARTICIPATE IN THE MONETARY BENEFITS OF THE SETTLEMENT BEFORE EXPIRATION OF THE DEADLINE**; and (iii) does not have their notice returned by the Postal Service without a valid forwarding address. No class member will receive more than \$500.00, regardless of the number of Metrolift faxes received. In the event funds remain in the Settlement Fund after payment of all valid claims, the funds

will be distributed to charitable organizations selected by the mutual agreement of plaintiffs and Metrolift and approved by the Court.

Attorney’s Fees. Plaintiffs’ counsel will request approval of the Court for attorneys’ fees of not more than \$225,000.00, plus reasonable out of pocket expenses to be paid from the Settlement Fund. Metrolift will not oppose or cause to be opposed an application by plaintiffs’ counsel for attorneys’ fees and costs of \$225,000.00.

Relief to Named Plaintiffs. Metrolift agrees not to oppose the payment of \$6,000.00 each to plaintiffs Saf-T-Gard International, Inc. and Clearbrook from the Settlement Fund.

Costs. Costs associated with the notice and administration of the settlement will be paid from the Settlement Fund.

Release: Unless you exclude yourself from the Settlement, you will be part of the class. By staying in the class, all of the Court’s orders will apply to you, and you give Metrolift a “release” of all claims relating to their sending of advertising material by fax. A release means you can’t sue or be part of any other lawsuit against Metrolift relating in any way to their sending of advertising material by fax ever again, including any claims about your receipt of unauthorized advertisements from any Metrolift entity by fax.

CLASS COUNSEL’S OPINION OF THE VALUE OF THE SETTLEMENT

In an individual action, a prevailing plaintiff may be able to recover \$500 in statutory damages under the TCPA (\$1,500 if a willful violation is shown). Of course if an individual does not prevail, he will receive no payment.

There have been question raised as to which entities received faxes; whether Metrolift received permission to send advertising faxes to some or all of the persons

or businesses that were sent such advertisements by fax; or whether it had a prior business relationship with such persons or businesses. As a result, Plaintiffs' counsel recognizes that there is inherent risk as to whether this case would be maintainable as a class action absent this Settlement. In the absence of this Settlement, each individual who received a faxed advertisement would have to prosecute a lawsuit individually, and therefore lose the benefits of class representation. If litigated through to trial, this action would be expensive, would raise numerous complex issues, would likely be the subject of various appeals and would leave many uncertainties. For these reasons, Class Counsel believes that the settlement is fair and reasonable and that the class members should accept this settlement.

FAIRNESS HEARING

A hearing will be held on the fairness of the proposed settlement. At the hearing, the Court will be available to hear any objections and arguments concerning the fairness of the proposed settlement, including the amount of the award to plaintiffs' counsel of costs and attorney's fees. The hearing will take place on August 4, 2009 at 10:30 a.m. before Judge Rochford in Room 2308 of the Circuit Court of Cook County, Illinois, County Department, Chancery Division, Daley Center, 50 W. Washington St., Chicago, Illinois, 60602. **YOU ARE NOT OBLIGATED TO ATTEND THIS HEARING.**

YOUR OPTIONS

1. **If you wish to receive a portion of the settlement proceeds, you must complete and return the proof of claim form at the back of this notice indicating that you wish to participate in the settlement.** The completed proof of claim form must be post-marked or received at the same address on or before July 13, 2009. If you return the completed claim form, you will be represented by the attorneys for plaintiffs

without additional charge. Or, if you prefer, you may enter your own appearance or ask the Court to allow you to participate in the settlement through your own attorney. If you wish to participate on your own or through your own attorney, an appearance must be filed with the Court by July 13, 2009. If you participate through your own attorney, it will be at your expense. Any party who returns a claim form or otherwise does not exclude his or herself from the settlement, as described below, will be bound by the settlement agreement and release of claims against Metrolift, as approved by the Court.

2. **You have the right to exclude yourself from both the class action and the settlement** by filing a written request for exclusion with the Clerk of the Circuit Court of Cook County, Illinois, County Department, Chancery Division, Daley Center, 50 W. Washington St., Chicago, Illinois 60602. **The request for exclusion must be received by the Clerk of the Court on or before July 13, 2009,** and must list your name, address, and the name and number of the case. You must also serve copies of the request for exclusion on each of the attorneys for the plaintiffs and for Metrolift, at the following addresses by the same date.

Daniel Edelman *and* Julie Clark
EDELMAN, COMBS, LATTURNER &
GOODWIN, LLC
120 S. LaSalle Street, 18th Floor
Chicago, Illinois 60603
Tel (312) 739-4200; Fax (312) 419-0379

Keith J. Keogh
KEITH J. KEOGH, LTD.
227 W. Monroe Street, Suite 2000
Chicago, Illinois 60606
Tel (312) 726-1092; Fax (312) 726-1093
(Attorneys for the plaintiffs and the class)

David P. Sanders
JENNER & BLOCK LLP
330 N. Wabash Avenue
Chicago, IL 60611-7603

(312) 222-9350
(Attorney for Metrolift)

3. If you object to the settlement, and wish to submit an objection rather than simply exclude yourself from the class action, you must submit your objection in writing to the Clerk of the Circuit Court of Cook County, Illinois, County Department, Chancery Division, Daley Center, 50 W. Washington St., Chicago, Illinois 60602. The objection must be received by the Clerk of the Court on or before July 13, 2009, and must refer to the name and number of the case. You must also serve copies of your objection on each of the attorneys for the plaintiffs and for Metrolift listed above by the same date. Any objection must include your name and address, the name and number of the case, and a statement of the reasons why you believe that the Court should find that the proposed settlement is not in the best interests of the class. You may also appear at the hearing before Judge Rochford on August 4, 2009 at 10:30 a.m. **YOU ARE NOT REQUIRED TO ATTEND THIS HEARING.** Please note that it is not sufficient to simply state that you object. You must state reasons why the settlement should not be approved.

IMPORTANT: THE COURT REQUIRES THAT ANY REQUESTS FOR EXCLUSION OR OBJECTIONS BE RECEIVED BY THE CLERK BY JULY 13, 2009. IF YOU MAIL A REQUEST FOR EXCLUSION OR OBJECTION, YOU BEAR THE RISK OF THE REQUEST FOR EXCLUSION OR OBJECTION NOT BEING RECEIVED BY THE CLERK BY THE DEADLINE.

Any questions you or your attorney has concerning this notice should be directed to LAW OFFICES OF KEITH J. KEOGH, LTD. OR EDELMAN, COMBS, LATTURNER & GOODWIN at the address listed above. Please include the case name and number,

If you choose to exclude yourself from the class action and settlement you will not receive payment under this agreement. If you remain in the class action but do not return a proof of claim form by July 13, 2009 you will be bound by the Settlement Agreement and release, but will not receive payment under this agreement. Only those class members who complete and return a valid proof of claim form post-marked on or before July 13, 2009 will receive payment under this agreement.

If the settlement is not approved, the case will proceed as if no settlement had been attempted. There can be no assurance that if the settlement is not approved, the court will allow this case to proceed as a class action, or that a class will recover more than is provided in the settlement, or indeed, anything.

This description of the case is general and does not cover all of the issues and proceedings thus far. In order to see the complete file, including a copy of the settlement agreement, you should visit the office of the Clerk of the Circuit Court of Cook County, Illinois, County Department, Chancery Division, Daley Center, 50 W. Washington St., Chicago, Illinois 60602. The Clerk will make the files relating to this lawsuit available to you for inspection and copying at your own expense.

INQUIRIES

your name and your current return address on any letters, not just the envelopes. Please do not contact the Court Clerk or Metrolift's attorneys; they are not in a position to give you any advice about this settlement.

PROOF OF CLAIM

RE: SAF-T-GARD, INC. v. METROLIFT, INC., Case No. 07 CH 1266, *consolidated with CLEARBROOK v. METROLIFT, INC. and JOHN DOES 1-10*, Case No. 07 CH 01518 (Circuit Court of Cook County, Illinois, County Department, Chancery Division)

IMPORTANT: THIS CLAIM FORM MUST BE POSTMARKED OR RECEIVED ON OR BEFORE JULY 13, 2009, AND MAILED TO THE FOLLOWING ADDRESS:

**EDELMAN, COMBS, LATTURNER & GOODWIN, LLC
120 S. LaSalle St., Suite 1800
CHICAGO, IL 60603**

Please print the following information:

NAME: _____

COMPANY _____
(if filing on behalf
of a business)

ADDRESS: _____

CITY/STATE: _____

ZIP CODE: _____

TELEPHONE: _____

E-MAIL: _____

I submit this Claim Form under penalty of perjury and state that I am (or the business or entity I represent is) the only person or entity entitled to receive the settlement benefit being sought and that I (and/or the business or entity that I represent) had ownership, authority or control over the fax number listed above on or after January 17, 2002. I swear or affirm I did not have an established business relationship with Metrolift, Inc. at the time of the transmission of the facsimile advertisement to me and did not consent to the sending of it to me.

By participating in this settlement I hereby release Metrolift Incorporated of all claims that relate in any way to their sending of advertising material by fax as set forth more fully in the settlement agreement

(YOUR SIGNATURE)